

**Hearing Date: June 28, 2023**  
**Hearing Time: 10:00 a.m.**

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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

CELSIUS NETWORK LLC, *et al.*,<sup>1</sup>  
Debtors.

Chapter 11

Case No. 22-10964 (MG)

Jointly Administered

**OBJECTION OF THE AD HOC GROUP OF BORROWERS TO THE  
DEBTORS' THIRD MOTION FOR ENTRY OF AN ORDER (I) EXTENDING  
THE DEBTORS' EXCLUSIVE PERIOD TO SOLICIT ACCEPTANCES  
OF A CHAPTER 11 PLAN PURSUANT TO SECTION 1121 OF THE  
BANKRUPTCY CODE AND (II) GRANTING RELATED RELIEF**

The Ad Hoc Group of Borrowers (the "Ad Hoc Group"),<sup>2</sup> by and through its attorneys,  
McCarter & English, LLP, hereby files this objection ("Objection") to the Debtors' *Third*  
*Motion for Entry of an Order: (I) Extending the Debtors' Exclusive Period to Solicit*  
*Acceptances of a Chapter 11 Plan pursuant to Section 1121 of the Bankruptcy Code and (II)*

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Celsius Network LLC (2148); Celsius KeyFi LLC (4414); Celsius Lending LLC (8417); Celsius Mining LLC (1387); Celsius Network Inc. (1219); Celsius Network Limited (8554); Celsius Networks Lending LLC (3390); and Celsius US Holding LLC (7956). The location of Debtor Celsius Network LLC's principal place of business is 121 River Street, PH05, Hoboken, New Jersey 07030.

<sup>2</sup> The members of the Ad Hoc Group (collectively, the "Borrowers") are set forth in certain statements (the "Rule 2019 Statements") filed by McCarter & English, LLP from time to time pursuant to Rule 2019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). On or about January 23, 2023, the McCarter Firm filed the *First Supplemental Verified Statement Pursuant to Bankruptcy Rule 2019* [ECF Doc. # 1920], which is the most recent Rule 2019 Statement identifying the members of the Ad Hoc Group. Additional members continue to join the Ad Hoc Group on an ongoing basis, and the McCarter Firm will file additional Rule 2019 Statements as necessary to comply with Bankruptcy Rule 2019.

*Granting Related Relief* (“**Third Exclusivity Motion**”; ECF Doc. #2805) and respectfully states as follows:

**OBJECTION**

1. On March 9, 2023, the Court entered an *Order Extending the Debtors' Exclusive Periods to File a Chapter 11 Plan and Solicit Acceptances Thereof Pursuant to Section 1121 of the Bankruptcy Code and (II) Granting Related Relief* (ECF Doc. # 2203; “**Second Exclusivity Order**”). Among other things, the Second Exclusivity Order extended the Debtors’ time to solicit acceptances on a plan until June 30, 2023.

2. Prior to the entry of the Second Exclusivity Order, the Debtors had filed an outline of a recovery plan to the borrower group. *See Debtors' Statement with Respect to the Status of the Debtors' Chapter 11 Plan Process* (ECF Doc. # 2066); *see also Debtors' Motion for Entry of an Order (I) Authorizing and Approving Certain Bid Protections for the Proposed Plan Sponsor and (II) Granting Related Relief*, ECF Doc. # 2151, Exhibit 3 (Retail Loan Settlement Agreement General Terms & Borrow Settlement Term Sheet (the “**Term Sheet**”). The Term Sheet reflected a process by which the borrowers’ loans would be extended with Newco and the collateral would be returned to the borrowers upon loan repayment.

3. Prior to and after the Court entered the Second Exclusivity Order, the Ad Hoc Group had been engaged in extended negotiations with the estate fiduciaries to finalize the treatment of the borrower group. The economics of the transaction had been agreed to (eligibility, term of loan, interest rate *etc.*) and the few remaining issues were tax related. These negotiations which had been ongoing for months came to an abrupt halt shortly before the auction commenced on April 25, 2023 at which time all communications to the Ad Hoc Group

ceased.<sup>3</sup> The radio silence to the Ad Hoc Group continued until June 13, 2023.

4. After more than seven weeks of radio silence, the Ad Hoc Group was advised by the estate fiduciaries on June 13, 2023 that the prior treatment reflected in the Term Sheet was no longer available. The estate fiduciaries requested that the Ad Hoc Group agree to mediation with the estate fiduciaries and other creditor groups.

5. On June 15, 2021, the Debtors filed their Amended Plan of Reorganization (ECF Doc. # 2807; the “**Proposed Plan**”). Under the Proposed Plan, the Retail Borrower Class (Class 2) receives the “Set Off Treatment” which is defined as:

“Set Off Treatment” means, with respect to any Retail Borrower Deposit Claim, the treatment option pursuant to which such Retail Borrower Deposit Claim will be set off or recouped against the applicable Retail Advance Obligations outstanding on the Petition Date. Under the Set Off Treatment, the Retail Borrower will retain the proceeds of its Retail Advance Obligation and have the associated Retail Borrower Deposit Claim reduced by the amount of the Retail Advance Obligations outstanding as of the Petition Date. The remaining amount of the Retail Borrower Deposit Claim (calculated in United States dollars as of the Petition Date . . . ) after such set off or recoupment is accounted for will receive the Unsecured Claim Distribution Consideration or Convenience Class Distribution, as applicable.<sup>4</sup>

6. “Retail Advance Obligation” is defined in the Proposed Plan as “any claim of the Debtors against a Retail Borrower with respect to advances made by the Debtors in connection with the Debtors’ Borrow Program as of the Petition Date”<sup>5</sup> and “Retail Borrower Deposit Claim” is defined as the “Retail Borrower’s Claim against the Debtors on account of the Cryptocurrency such Retail Borrower transferred in connection with its Retail Advance Obligation(s).”<sup>6</sup>

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<sup>3</sup> It should also be noted that counsel to the Ad Hoc Group was not permitted to attend the auction and instead was advised that attendance at the auction was “strictly remote.”

<sup>4</sup> See Proposed Plan, Art. I.A. §207.

<sup>5</sup> See Proposed Plan, Art. I.A. §187.

<sup>6</sup> See Proposed Plan, Art. I.A. §188.

7. Piecing together these definitions, the Proposed Plan seeks to (i) set off the Debtors' claim against the borrower (*i.e.* the loan claim)<sup>7</sup> and (ii) treat the borrower's remaining claim (after set off) as other claims in the bankruptcy. This treatment under the Proposed Plan is inconsistent with consumer lending laws or Section 1129 of the Bankruptcy Code.

8. Given the complete about face of the Debtors as reflected in the treatment under the Proposed Plan, the Ad Hoc Group does not believe that the Debtors have met their burden of demonstrating "cause" to extend their exclusive period to solicit acceptance for an additional 91 days (until September 29, 2023). Specifically, although the Debtors assert that they have had "open and transparent communications with the major creditor groups" (*See* Third Exclusivity Motion at §20), the opposite is in fact the case with respect to the Ad Hoc Group. Moreover, to the extent that the Debtors determined that they did not wish to move forward with the treatment set forth in the Term Sheet, mediation should have been requested at the commencement of the Auction (April 25, 2023) – rather than waiting for seven (7) weeks.

9. For this reason, the Ad Hoc Group believes that any extension of the Debtors' exclusive period to solicit acceptances, if granted by the Court, be limited to 60 days or August 31, 2023.

*[Remainder of page left intentionally blank]*

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<sup>7</sup> As set forth in the Adversary Action filed by the Ad Hoc Group (*Ad Hoc Group of Borrowers v. Celsius Network LLC et al.*, Adv. Action No. 23-1007 (MG)) seeks a declaration, among other things, that the "Retail Advance Obligations" are void and unenforceable against the borrowers.

**WHEREFORE**, the Ad Hoc Group of Borrowers respectfully requests that this Court deny the Third Exclusivity Motion or limit the extension of exclusivity as set forth herein.

Dated: New York, New York  
June 21, 2023

**McCARTER & ENGLISH, LLP**

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